

Remarks/Arguments

Reconsideration of the above-identified application in view of the present amendment is respectfully requested. Claims 1-19 are pending in the present application. Applicant respectfully acknowledges that claims 5-7 and 12-17 are allowable, and that claims 18-19 are allowed. Claims 1 and 8 have been amended. Claims 5-7 and 12-17 are hereby cancelled. New claims 20-28 are hereby presented.

Preliminary Matters

Applicant wishes to thank the Examiner for the courtesies extended during the telephone interview of January 3, 2007.

Specification Objection

The abstract was objected to for referring to the merits of the invention. Pursuant to the telephone interview referenced above, the abstract has been amended to overcome this objection.

Rejection of Claims 1-4 and 8-11 under 35 U.S.C. §102(e)

The Examiner rejected claims 1-4 and 8-11 as being anticipated by U.S. Patent Appln. No. 2006/0189994 to Wolford, et al. (hereinafter "Wolford"). It is respectfully submitted that, as amended, claim 1 is not anticipated by Wolford, and is therefore allowable.

As amended, claim 1 recites, *inter alia*, a distal end portion of a tubular portion that includes an articulable head section with at least one planar stop surface and a cutting edge projecting from said at least one planar stop surface.

Wolford appears to teach that cutting teeth 16 are located to provide a generally full hemispherical cutting coverage about hemispherical shell 18 that is connected to driver 14 (paragraph 29). That is, cutting teeth 16 project from a hemispherical shell 18, not a planar surface, as recited in amended claim 1. According to the present invention, as the cutting edge 70 cuts through the anterior wall 140, axial movement of the cutting edge is stopped when the stop surface 68 on the head section 60 engages the inner surface 136 of the cortical bone 130, which prevents the cutting edge 70 from undesirably straying beyond the vertebral body 132 and cutting other tissues, such as blood vessels, nerves, and muscles, or bones (page 12, lines 1-7; Figs. 3 and 10). The hemispherical shell 18 in Wolford is not capable of performing this objective because of the orientation between the hemispherical shell 18 and the cutting teeth 16. Thus, Wolford does not teach or suggest the subject matter of amended claim 1. Accordingly, amended claim 1 is not anticipated by Wolford, and allowance of amended claim 1 is respectfully submitted.

Claims 2-4 depend from claim 1 and are allowable for the same reasons claim 1 is allowable, and for the specific limitations recited therein.

As amended, claim 8 recites, *inter alia*, a distal end portion of a tubular portion that includes an articulable head section with a cutting edge and at least one planar stop surface.

Wolford appears to teach that cutting teeth 16 are located to provide a generally full hemispherical cutting coverage about hemispherical shell 18 that is connected to driver 14 (paragraph 29). That is, cutting teeth 16 project from a hemispherical shell 18, not a planar surface, as recited in amended claim 8. According to the present invention, as the cutting edge 70 cuts through the anterior

wall 140, axial movement of the cutting edge is stopped when the stop surface 68 on the head section 60 engages the inner surface 136 of the cortical bone 130, which prevents the cutting edge 70 from undesirably straying beyond the vertebral body 132 and cutting other tissues, such as blood vessels, nerves, and muscles, or bones (page 12, lines 1-7; Figs. 3 and 10). The hemispherical shell 18 in Wolford is not capable of performing this objective because of the orientation between the hemispherical shell 18 and the cutting teeth 16. Thus, Wolford does not teach or suggest the subject matter of amended claim 8. Accordingly, amended claim 8 is not anticipated by Wolford, and allowance of amended claim 8 is respectfully submitted.

Claims 9-11 depend from claim 8 and are allowable for the same reasons claim 8 is allowable, and for the specific limitations recited therein.

New Claims

New independent claim 20 incorporates the subject matter of claim 1 and claim 5. Claim 5 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim. Since new claim 20 incorporates the subject matter of claim 5, and its rejected base claim, claim 1, it is respectfully submitted that new claim 20 is allowable.

New claim 21 depends from claim 20 and is allowable for at least the same reasons claim 20 is allowable, and for the specific limitations recited therein.

New independent claim 22 incorporates the subject matter of claim 1 and claim 7. Claim 7 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim. Since new claim 22 incorporates the subject matter of claim 7, and

its rejected base claim, claim 1, it is respectfully submitted that new claim 22 is allowable.

New independent claim 23 incorporates the subject matter of claim 8 and claim 12. Claim 12 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim. Since new claim 23 incorporates the subject matter of claim 12, and its rejected base claim, claim 8, it is respectfully submitted that new claim 23 is allowable.

New claims 24-28 depends from claim 23 and are allowable for at least the same reasons claim 23 is allowable, and for the specific limitations recited therein.

In view of the foregoing, it is respectfully submitted that the above-identified application is in condition for allowance, and allowance of the above-identified application is respectfully submitted.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,



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